

COCHIN PORT TRUST

SCHEDULE NOTIFICATION

No. DC/DIST & SALE OF VESSELS/2014.

17th July 2014.

In Pursuance of sub-section (2) of Section 124 of the Major Port Trusts Act, 1963 (38 of 1963), the Board of Trustees of Cochin hereby publish the following "The Cochin Port Trust (Distraint or Arrest and sale of Vessels) Regulations, 2014." made by them in exercise of the powers, conferred by Section 123 of Major Port Trust Act, 1963 (38 of 1963) in replacement of 'The Cochin Port Trust (Distraint or Arrest and sale of Vessels) Regulations, 1988.' for the information of the persons likely to be affected thereby and notice is hereby given that the approval thereto of the Central Government as required under sub-section (1) of Section 124 of that Act, will be applied for on or after the expiry of fourteen days from the date on which this notification is first published in this Gazette :

Cochin Port Trust (Distraint or Arrest and Sale of Vessels) Regulations 2014

1. (i) Short title.— These Regulations may be called "The Cochin Port Trust (Distraint or Arrest and sale of Vessels) Regutations, 2014"

(ii) Commencement.— They shall come into force on the date of their final publication in the Official Gazette.

2. Applications :

These regulations shall apply to all vessels in respect of which any rates or penalties or both are payable under the Major Port Trusts Act, 1963 or under any regulations or orders made there under, but shall not apply to vessels belonging to, or in the service of, the Central Government or a State Government or to any vessel of war belonging to any Foreign State.

3. Definitions:

In these regulations, unless the context otherwise requires,

(i) "Act" means the Major Port Trusts Act, 1963 (38 of 1963) ;

(ii) "Deputy Conservator" means the Officer in charge of the Marine Department of the Port Trust and includes his immediate Deputy, the Harbour Master and any other officer acting under the authority of the Deputy Conservator ;

(iii) "Form" means the form annexed to these regulations ;

(iv) "rates" means any toll, due, rate, fee or charge payable under this Act ;

(v) Words and expressions used in these regulations but not defined and defined in the Act shall have the meanings respectively assigned to them in the Act ;

4. Distraint or arrest of Vessels:

(1) Where any vessel in respect of which rates/penalties have not been paid is lying at the Port, a demand in 'Form I' shall be made by the Finance Advisor & Chief Accounts Officer upon the Master of the defaulting vessel requiring the said Master to pay all the rates or penalties within a period of seven days from the date of issue of the said demand.

(2) The said demand shall accompany the copy of the bills containing the full particulars of Rates or penalties which were raised against the owner or agent of the concerned vessel and payment of which still remains due to the Board.

(3) The said demand shall be served upon the Master and in the event of non-availability of the Master, the affixing of the demand notice on the mast of the vessel shall be deemed as service of the demand upon the Master.

(4) If the Master of the defaulting vessel, refuses or neglects to pay the rates/penalties or any part thereof within the time limit specified in the demand made upon the Master, the Board may proceed to distraint or arrest such vessel and the tackle, apparel and furniture belonging thereto, or any part thereof and detain the same until the amount so due to the Board, together with such further amount as may accrue for any period during which the vessels is under distraint or arrest, is paid.

(5) In order to distraint or arrest the defaulting vessel, the Deputy Conservator shall issue warrant of arrest in 'Form- II' clearly specifying the amount due and indicating that the distraint or arrest shall continue until the amount so due to the Board together with further accrual of Rates and penalties and costs are paid towards full satisfaction of the Board.

(6) (a) The warrant of arrest shall be served upon the Master of the vessel and a copy thereof shall also be affixed on the mast of the vessel.
 (b) In cases where the Master is not available or avoids service of the warrant, the fixing of the copy of the warrant on the mast of the vessel shall be deemed as service of the warrant upon the Master.

- (7) If the said Rates/penalties or cost of the distress or arrest of the vessel or the keeping of the same are not paid by the owner or master or agent of the vessel towards full satisfaction of the Board within a period of five working days next after the distress or arrest has been made, the Board shall cause the vessel or other things so distressed or arrested to be sold.
- (8) In the case of a foreign vessel placed under distress or arrest by an order, the Embassy of the Flag Country, Director General of Shipping, and the Ministry of Surface Transport, Government of India shall also be informed.

5. Sale of restrained or arrested vessel:

- (1) The Deputy Conservator or any person duly appointed by any competent court or the Board of Trustees, shall have a valuation survey of the vessel carried out by approved Surveyors to ascertain the reserve sale price of the restrained or Arrested vessel.
- (2) The Deputy Conservator shall inform the Director General of Shipping before putting the vessel and the tackle, apparel and furniture belonging thereto, to sale.
- (3) The sale shall be held in accordance with the provisions of the Sale of Goods Act, 1930 read with subsequent amendments if any and also in terms of the conditions of sale as per Tender Notice.
- (4) Sealed tenders shall be invited from the prospective buyers through press advertisement, as in 'Form- III-A or B', or in any format prepared by the Advocate Commissioner appointed by Hon'ble High Court of Kerala or Board of Trustees, Cochin Port Trust at least in four leading news papers, including Hindi and one regional language daily, specifying the last date for the receipt of tenders.
- (5) The prospective buyers shall be permitted to inspect the 'Vessel' after the sale notice is published in the Press, during a specified period which shall be fixed by the Deputy Conservator or any person duly appointed by any competent court or the Board of Trustees.
- (6) Each tender shall be accompanied by an Earnest Money Deposit (EMD), to be paid by the Bank Draft, to be fixed by the Deputy Conservator or any person duly appointed by any competent court or the Board of Trustees in each case.
- (7) The tenders received after the due date and time, shall be summarily rejected.
- (8) The sealed tenders shall be opened in the presence of tenderers/or their authorized representatives present on the date and time fixed by the Deputy Conservator or any person duly appointed by any competent court or the Board of Trustees for opening the tenders and if any tenderer/or his authorized representative is not present at the time fixed for opening the tenders, his tender may be rejected without opening, giving the reasons.
- (9) The acceptance of the offer shall be communicated to the successful tenderer, by Deputy Conservator or the Registrar of Hon'ble High Court or Advocate Commissioner appointed by Board of Trustees, Cochin Port Trust as the case may be.
- (10) The successful tenderer shall pay 25% of the bid amount within seven working days from the date of acceptance of the tender and the balance amount within 15 days from the date. In addition to the tender value the successful tenderer will also deposit such money/Bank Guarantee for a value as determined by the Deputy Conservator or any person duly appointed by any competent court or the Board of Trustees as security deposit which will be returned within a period of 3 months after successful completion. However, no interest shall be paid by the Port/Hon'ble High Court on the deposit so made. .
- (11) In default of payment of 25% of the bid amount within seven working days from the date of acceptance of the tender, the sale shall, unless otherwise ordered, stand automatically revoked, and the earnest money shall be forfeited, and the 'Vessel' shall be resold at the risk of the tenderer whose tender was accepted.
- (12) If the 'Vessel' is not removed from the harbour for any reason within 30 days from the date of issue of sale order, additional berth hire charges beyond the normal charges, as laid down in the Port's Scale of Rates, shall be levied.
- (13) Under no circumstances, the buyer shall be permitted to dismantle or break the ship inside the harbour or within the Port limits, unless or otherwise it is specifically permitted to do so.

6. Liabilities of the buyer of the vessel:

- (1) On and from the date of acceptance of the tender all Rates/penalties and other charges shall be to the buyer's account.
- (2) Upon acceptance of the tender, the buyer shall deposit with the Port an amount representing 30 days' rates, fees and charges as may be estimated by the Deputy Conservator to be payable for such period.
- (3) Customs and Excise duties, Sales Tax, VAT or any other Taxes shall be as applicable on buyer's account and he should remit the amounts an account of such duties and taxes to the concerned authorities and produce the receipts for such payments before the clearance is granted to the 'Vessel' by the Port.
- (4) Immediately after the acceptance of the tender the buyer shall make all arrangements for manning and maintenance of the vessel by a certificated Master, certificated Officers and certificated Engineers with an adequate number of crew during the period the vessel is kept inside the harbour.

DR. C. UNNIKRISHNAN NAIR,
Secretary.

Ph: 0484-2666412.

FORM No. I

[See Regulation 4 (l)]

No.

Date:

To

The Master,
M.V./M.T.

Sub:—M.V./M.T. Rates/Penalties—Non-payment—‘Demand Notice’ for immediate payment—reg.

Ref:—This office letter No. dt.

Sir,

Kindly refer to this office letter cited above wherein you have been requested to pay a sum of Rs. (Rupeesonly) as on towards the Port dues/penalties payable under the provisions of the Major Port Trusts Act, 1963/regulations or orders made thereunder due to the Port Trust on or before

However, so far you have not taken any steps being the Master of the vessel, or by the Agents, to pay dues to the Port Trust as demanded towards aforesaid Port dues/penalties. As onan amount of Rs.(Rs.only) is due from the Vessel.

2. Therefore, ‘Notice’ is hereby given to you for making the above payment within seven days on receipt of this Notice, failing which provisions of section 64 of the Major Port Trust Act, 1963 will be invoked to Distress or Arrest the Vessel and the tackle, apparel and furniture belonging thereto, or any part thereof, and detain the same until the amount so due to the Port Trust Board, together with such further amount as may accrue for any period during which the Vessel is under Distress or Arrest, is paid.

Yours faithfully,

*Financial Advisor & Chief Accounts Officer,
Cochin Port Trust.*

Copy to:

M/s.

.....

Owners of Vessel M.V./M.T.

Copy to:

M/s.Agents of the Vessel.

FORM No. II

[See Regulation 4 (5)]

No.

Date:

To

The Master,

M.V/M.T.

Sub:—M.V/M.T.Non-payment of Port dues/penalties—Warrant of Arrest—Reg.

Ref:—Letter No. dt. of F.A. & C.A.O. CoPT.

Sir,

Please refer to the letter cited under reference above, where in you have been requested to pay a sum of Rs. (Rupees only) as on towards the Port dues/penalties due to the Port Trust on or before However, so far being the Master of the 'Vessel' or by the Agents have not taken any steps to pay the said dues to the Port Trust as demanded. Therefore you are hereby informed that an approximate amount of Rs. (Rupees..... only) is due towards Port dues/penalties as on from the said 'Vessel'.

2. In view of the non-payment of the above Port dues/penalties due to the Port Trust Board, I hereby pass orders in exercise of the powers conformed under the provisions of section 64 of the Major Port Trusts Act, 1963, that the 'Vessel' M.V./M.T. is hereby distrained and will be kept under detention until the amount due to the Port Trust Board together with such further amount as may accrue for any period during which the vessel is distrained and is paid.

3. Please also note that in case the above said amount and the cost of the restraint is not settled within five working days from the date of distraint order (i.e.) I shall be constrained to sell the above vessel through the Advocate Commissioner appointed by Hon'ble High Court or Board of Trustee, Cochin Port Trust as the case may be under the powers vested under section 64 of the said Act and the sale proceeds will be adjusted against the charges due to the Board including the cost of the sale of the vessel.

Yours faithfully,
Deputy Conservator.

Copy To :

(i) M/s.
.....

Owners of the Vessel M.V./M.T.

(ii) M/s. Agents of the Vessel

FORM No. III—A

[See Regulation 5 (4)]

Advertisement

In exercise of the powers conferred by section 64 of the Major Port Trusts Act, 1963. ‘The Cochin Port Trust, Cochin invite sealed tenders from the intended purchasers for the sale of the Vessel M.V./M.T. on “as is where is” basis.

2. Brief particulars of the vessel are as follows:—

Name of the Vessel	.....
Year of Build	.....
G R. T.	.....
N. R. T.	.....
Length	.....
Breadth	.....
Depth	.....
Dead Weight	.....
Classification	.....
Engine	.....
B. H. P.	.....
L. D. T.	.....
Year of Built	.....
Yard	.....

3. Tenders should be submitted before hrs. on addressed to the Deputy Conservator, Cochin Port Trust, Willingdon Island, Cochin-682 009 along with an Earnest Money Deposit of Rs. (Rupees) by Demand Draft drawn on any Nationalized/ Scheduled Bank and drawn in favour of FA & CAO, CoPT payable at Cochin. The tender should be submitted superscribing on the envelop “TENDER FOR THE PURCHASE OF M.V./M.T.”

4. All tenders received after the due date and time will be summarily rejected.

5. The sealed tenders for the purchase of the vessel shall be opened on in the presence of Deputy Conservator, Cochin Port Trust, Cochin, in his office. The acceptance of the offer will be communicated to the successful tenderer.

6. The successful tenderer shall pay 25% of the bid amount within seven working days from the date of acceptance of the tender and the balance within 15 days from that date of sale order. No Bank Guarantee will be accepted. In default of payment of 25% of the bid amount within seven working days from the date of acceptance of the tender, the sale shall unless otherwise ordered, stand automatically revoked and the Earnest Money Deposit of Rs.....forfeited and the Vessel shall be resold at the risk of cost of the tenderer, whose tender was accepted. Should the balance of sale consideration be not paid within the aforesaid time of 15 days from the acceptance of the tender the sale shall stand automatically revoked and the Earnest Money of Rs.....be forfeited. The 25% amount already paid shall be retained to meet any shortfall or other expenses arising out of the said resale.

7. Customs, Excise and Import Duty, Sales Tax, V A T, etc. as applicable on 'BUYERS ACCOUNT'.

8. The tenders will be opened on..... at in the presence of Deputy Conservator, Cochin Port Trust, Cochin in his office and the acceptance of any tender will be at the sole discretion of the Deputy Conservator, Cochin Port Trust, Cochin.

9. The Vessel should be removed from the premises of the Cochin Port Trust, within 30 days or any extended date from the date of sale order. Till its removal the buyer shall man and maintain the Vessel by Certificated Master, Certificated Officers and Certitificated Engineers plus an adequate number of crew.

10. The Buyer will have to pay all the Rates and Penalties (if any) from the date of sale of the Vessel till the date of actual removal of the Vessel from the harbour in accordance with the Major Port Trust (Distraint or Arrest and sale of Vessels) Regulations, 2014.

11. The buyer shall obtain all statutory required permissions for removal of the Vessel from DG Shipping/MMD, Kochi at his cost.

12. Under no circumstances, the Buyer will be permitted to dismantle the Vessel inside the harbour or within Port limits, unless or otherwise it is permitted to do so.

13. The Vessel which is lying at Cochin Port premises may be inspected by prior permission of the Deputy Conservator, Cochin Port Trust.

14. The Cochin Port, Trust reserves the right to reject any or all the tenders without assigning any reason whatsoever.

*Deputy Conservator,
Cochin Port Trust.*

FORM No. III—B

[See Regulation 5 (4)]

(In case the vessel is sold through the advocate commissioner appointed by Hon'ble High Court)

**Invitation for Auction Sale on Behalf of the Hon'ble High Court of Kerala
Ernakulam, Kerala, India**

SALE OF.....FLAG VESSEL M.V/M.TPURSUANT TO ORDER DATED.....

PASSED IN WPC No.

Sealed tenders are invited for the disposal of the Vessel M.V/M. T Presently laying afloat moored at..... Cochin Port Kerala, India for the recovery of the arrears/back wages of crew, Government dues and taxes and other charges.

2. Brief particulars of the vessel are as follows:—

Name of the Vessel	.....
Year of Build	.....
G. R. T.	.....
N.R.T.	.....
Length	.....
Breadth	.....
Depth	.....
Dead weight	.....
Classification	.....
Engine	.....
B. H. P.	.....
L. D. T.	.....
Year of Built	.....
Yard	.....

3. Estimated value.....Rs.
US Dollars

4. EMD Rs.
US Dollars.....

5. Vessel opened for inspection: Between 11 a. m. to 5 p. m. on

6. Cost of tender documents Rs..... + VAT.....

7. Last date for receiving the tenders.....

8. Date and time for opening the tenders at 11 a. m.

9. The tender documents may be purchased from Shri/Smt.

Advocate Commissioner by Non refundable demand draft of Rs.drawn in favour of the Registrar, Hon'ble High Court, Kerala payable at.....

10. Terms and Conditions: The *sale is on as is what is and where is* condition only. More details about the terms and conditions are mentioned in the tender document.

Shri./Smt.....

Advocate Commissioner:

Mobile Number:

E-mail address: